

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JILL STEIN, et al.	:	
	:	
Plaintiffs,	:	
v.	:	No.: 2:16-cv-06287-PD
	:	
PEDRO A. CORTES, in his official	:	
capacity as Secretary of the	:	
Commonwealth, et al.	:	
	:	
Defendants.	:	

**BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF AMICUS
CURIAE BY PENNSYLVANIA SENATE MAJORITY CAUCUS**

The issues raised in the Complaint (doc. 1) and in the Plaintiffs’ Motion for Preliminary Injunction (Doc. 4) are ones of significant concern to the Pennsylvania Senate Majority Caucus since Plaintiffs challenge policy choices made by the state’s elected officials. The Pennsylvania Senate Majority Caucus submits it has timely and useful information for the Court to consider in disposing of these matters. Accordingly, the Caucus respectfully requests that the Court grant the pending Motion for Leave to File Brief Amicus Curiae.

I. INTEREST OF AMICUS CURIAE

The Pennsylvania Senate is one of two parts of the Pennsylvania General Assembly, the Commonwealth’s legislative body. The Senate has two caucuses, each of which is a constituent part of the Senate: the Senate Democratic Caucus and the Senate Republican Caucus, also known as the Senate Majority Caucus. *See Precision Mktg., Inc.*

v. Com., Republican Caucus of the Sen. of PA/ AKA Sen. of PA Republican Caucus, 78 A.3d 667, 675 (Pa. Cmwlth. 2013) (“[T]his Court finds that the Senate Republican Caucus is one of two subparts that together comprise the Pennsylvania Senate and, as such, it is an integral constituent of the Senate.”). The Senate Majority Caucus presently has 34 members (out of 50 total for the legislative body).

As with any group of legislators, the Senate Majority Caucus and its constituent members are responsible for proposing new laws and amending existing laws. *See* Pa. Const. art. II, § 1. This responsibility extends, of course, to the Pennsylvania Election Code, 25 P.S. §§ 2601-3591, which is at issue here. As the Senate Majority Caucus understands the present dispute, Plaintiffs are seeking various declarations that the Election Code, in relevant part, is unconstitutional. Because the Senate Majority Caucus is acutely interested in ensuring that enacted laws reflecting the popular will of the Commonwealth’s citizens are protected against unfounded challenges, it wishes its voice heard in this significant attack on Pennsylvania’s policy choices. Thus, the Senate Majority Caucus has an interest unique among the Defendants – specifically, in protecting the constitutionally-vested powers and prerogatives of Pennsylvania’s law making branch of government.

II. ARGUMENT

An amicus curie is permitted to participate in a matter pending before a federal district court, and such participation is committed to the court's discretion. *Waste Mgt. of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995). Leave to participate is appropriately granted where the information offered by a proposed amicus party is “timely and useful.” *Id.* (quoting *Yip v. Pagano*, 606 F. Supp. 1566, 1568 (D.N.J. 1985)). These conditions are met here.

First, the Pennsylvania Senate Majority Caucus's motion is timely filed before the Court's disposition of the injunction this Friday. Second, the Caucus's brief offers the useful perspective of the majority of the elected officials in Pennsylvania's Senate, one of the two legislative bodies responsible for enacting the Pennsylvania Election Code. Specifically, the brief lays out the meaningful policy issues before the Court in Plaintiffs' request to declare portions of the Code unconstitutional. Accordingly, the Pennsylvania Senate Majority Caucus urges the Court to exercise its discretion and to review the proposed brief amicus curiae in its disposition of the pending request for injunctive relief.

III. CONCLUSION

For the foregoing reasons, the Pennsylvania Senate Majority Caucus respectfully requests the Court grant its Motion for Leave to File Brief Amicus Curiae and consider the brief attached thereto in its disposition of the issues presently pending in this matter.

Respectfully submitted

KLEINBARD LLC

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